



Peter Safirstein  
Direct Dial: 212-564-1637  
psafirstein@ForThePeople.com

April 24, 2015

**VIA EMAIL AND ECF**

The Honorable Andrew L. Carter, Jr.  
United States Courthouse  
40 Foley Square, Room 435  
New York, New York 10007

**Re: Harter v. BP PLC et al, No. 1:13-cv-07443-ALC**  
**(Coordinated with: In re: North Sea Brent Crude Oil Futures Litig., 13-md-02475-ALC)**

Dear Judge Carter:

We are interim co-lead counsel for the Coordinated Action, *Harter v. BP PLC et al*, No. 1:13-cv-07443-ALC (the “Landowner” action), and we write respectfully to provide Your Honor with additional information regarding the Stipulation that the Landowner Plaintiff (David Harter) submitted to the Court today (the “Stipulation”). The Stipulation is attached hereto as an exhibit. Similar to the stipulation entered into by the Brent Derivative Trader Plaintiffs in the Consolidated Action, *In re: North Sea Brent Crude Oil Futures Litig.*, 13-md-02475-ALC (ECF No. 307), this Stipulation records the agreement among the parties to substitute affiliates of Defendants Royal Dutch Shell plc (“RDS”) and Morgan Stanley, and to add an affiliate of Defendant Phibro Trading LLC.

On February 26, 2015, the parties attended a hearing before Your Honor where the stipulation in the Brent Derivative Trader Plaintiffs Consolidated Action was discussed, and counsel for the Landowner Plaintiff requested that Defendants enter a similar stipulation in the Coordinated Action.

The Landowner Plaintiff has subsequently met and conferred with the relevant and proposed defendants.<sup>1</sup> Based on the representations set forth in the Stipulation, the Landowner Plaintiff has agreed to make limited changes to the Landowner Complaint that do not require re-briefing of most of the issues in the motions to dismiss that are already under the Court’s consideration. According to the Stipulation, the Landowner Plaintiff will:

---

<sup>1</sup> The relevant and proposed defendants, as defined herein, are: Phibro Trading and Phibro Commodities (“Phibro entities”); RDS and Shell International Trading and Shipping Company Limited (“STASCO”) (collectively the “Shell entities”); and Morgan Stanley and Morgan Stanley Capital Group Inc. (“MSCGI”) (collectively the “Morgan Stanley entities”).

Hon. Andrew L. Carter, Jr.

April 24, 2015

Page 2

- 1) drop RDS as a defendant and substitute STASCO, an affiliate of RDS, that Plaintiff believes is the proper entity responsible for the conduct alleged against RDS in the Complaint;
- 2) drop Morgan Stanley as a defendant and substitute MSCGI, an affiliate of Morgan Stanley, that Plaintiff believes is the proper entity responsible for the conduct alleged against Morgan Stanley in the Complaint; and
- 3) add Phibro Commodities Ltd. ("Phibro Commodities"), an affiliate of Phibro Trading, which together with Phibro Trading, Plaintiff alleges engaged in certain conduct previously alleged against solely Phibro Trading in the Complaint.

Accordingly, Plaintiff has attached as Exhibit A to the Stipulation a proposed (limited) Second Amendment to the Coordinated Complaint, which substitutes STASCO and MSCGI as Defendants, instead of RDS and Morgan Stanley, respectively, and adds Phibro Commodities as a Defendant.

As with the stipulation in the Consolidated Action, the parties to the Coordinated Action Stipulation have eliminated certain issues which are currently before this Court on the pending motions to dismiss. Some new or replacement briefing is anticipated by the Stipulation. STASCO may provide the Court with a supplemental motion and supporting 15-page brief to replace the 15-page moving brief that was filed on behalf of RDS [ECF No. 284 in the Consolidated Action]. Phibro Commodities, another new defendant, may provide the Court a short supplemental jurisdictional motion to dismiss. Plaintiff would then have an opportunity to respond to these motions, and Defendants to reply. In addition, Morgan Stanley and MSCGI believe (and Plaintiff agrees) that the currently existing briefing filed on the Motion to Dismiss of Morgan Stanley [ECF No. 233] will be confusing as Morgan Stanley is being substituted out of the case. Therefore MSCGI and Plaintiff intend to provide the Court revised briefs reflecting the substitution of MSCGI for Morgan Stanley as the moving party, dropping mooted arguments and possibly making some necessary non-substantive language changes.

In addition to the parties to this Stipulation, the Brent Derivative Trader Plaintiffs and all Defendants that have been served in the Coordinated Action have reviewed the Stipulation and consent to this request. We appreciate Your Honor's consideration of this matter.

Respectfully submitted,

/s/ Peter Safirstein

Peter Safirstein

**MORGAN & MORGAN, P.C.**

28 West 44<sup>th</sup> St., Suite 2001

New York, NY 10036

Tel: (212) 564-1637

[psafirstein@forthepeople.com](mailto:psafirstein@forthepeople.com)

*Interim Co-Lead Counsel  
for the Coordinated Action*

cc: All Counsel of Record (by email)